

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of

Charles W. Gibbs, M.D.
Kansas License No. 04-32563

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Docket No. 21-HA00031

CONSENT ORDER

COMES NOW, Disciplinary Panel #35 (“Disciplinary Panel”) by and through Ruslan Ivanov Associate Litigation Counsel (“Petitioner”), and Charles W. Gibbs, M.D. (“Licensee”), by and through his attorney, Kelli Stevens of Forbes Law Group, and move the Kansas State Board of Healing Arts (“Board”) for approval of a Consent Order affecting Licensee’s license to practice medicine and surgery in Kansas. The Parties stipulate and agree to the following:

1. Licensee’s last known mailing address to the Board is: **CONFIDENTIAL**,
CONFIDENTIAL
2. Licensee’s last known e-mail address to the Board is: **CONFIDENTIAL**
3. Licensee is entitled to practice medicine and surgery in Kansas, having been issued original license number 04-32563 on August 18, 2007. Licensee’s current license status is Active, having last renewed such license on or about May 19, 2022.
4. At all times relevant to the allegations set forth herein, Licensee has held a current and Active license to engage in the practice of medicine and surgery in Kansas.
5. The Board has received information and investigated the same, and has reason to believe there are grounds to take action under the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*
6. The facts offered in support of this Consent Order are as follows:

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- a. Licensee met Patient “Jane Doe” (“Patient”) in the summer of 2016 when Patient accompanied her sister to an appointment with Licensee. **CONFIDENTIAL**
- CONFIDENTIAL** .¹
- b. In November 2016, Licensee established a physician-patient relationship with Patient when he saw her for a “pre-conception” examination and consultation. After this consultation, Licensee began to manage Patient’s prescriptions, which included controlled substances.
- c. In January of 2017, Licensee began a consensual romantic relationship that included sexual intimacy. This relationship endured until July of 2019.
- d. As part of their relationship, Licensee and Patient engaged in sexually intimate conduct, as well as exchanged sexually intimate communications that included sexually explicit photographs, videos, and text messages.
- e. Throughout Licensee’s intimate and sexual relationship with Patient, Licensee continued to provide medical care and treatment to Patient including but not limited to the following:
- i. On or about January 7, 2017, Licensee conducted an office visit with Patient.
 - ii. From about June, 2017, through about June 2019, Licensee wrote prescriptions to Patient for medications which include, but are not limited to the following: Alprazolam, Dextroamphetamine-Amphetamine, Fluconazole, Ketorolac, and Carisoprodol.

¹ The identity of “Patient” is known to both parties and is contained **CONFIDENTIAL**

- iii. On or about May 22, 2017, Licensee provided a phone consultation to Patient.
 - iv. On or about July 26, 2018, Licensee diagnosed Patient's strep throat.
 - v. On or about October 31, 2018, Licensee diagnosed Patient's Vitamin B-12 deficiency and procured a B-12 injection for Patient.
 - vi. On or about July 5, 2019, Licensee conducted a visit in his office, with Patient, for Long-Acting Reversible Contraception Device (LARC) placement.
- f. While the patient-physician relationship and the sexual relationships between Licensee and Patient continued at the same time, Licensee paid for personal expenses of Patient and provided Patient with gifts, including but not limited to:
- i. Licensee co-signed a lease for Patient and paid rent for the property.
 - ii. Licensee regularly paid for Patient's water and electrical utilities.
 - iii. Licensee purchased a vehicle (Jeep) for Patient's personal use.
 - iv. Licensee took Patient on a vacation to Mexico.
 - v. Licensee provided Patient with cash for various expenses by depositing the money in Patient's account.
 - vi. Licensee permitted Patient to use his credit cards for various expenses.
- g. Licensee failed to keep written medical records regarding the medical care and treatment he provided to Patient.

7. Licensee violated K.S.A. 65-2836(b), as further defined in K.S.A. 65-2837(b)(16), in that Licensee committed improper sexual contact that exploited the licensee-patient relationship with a patient.

8. Licensee has violated K.S.A. 65-2836(b), as further defined in K.S.A. 65-2837(b)(25), in that Licensee failed to keep written medical records that accurately describe the services rendered to the patient, including patient histories, pertinent findings, examination results and test results.

9. Under K.S.A. 65-2836, the Board may revoke, suspend or limit, or the licensee may be publicly censured or placed under probationary conditions for violations of the Kansas Healing Arts Act.

10. As a non-exhaustive list of factors supporting the parties' agreement that "indefinite suspension" is a more appropriate consequence for Licensee's violations of the Act rather than "revocation," the parties note the following:

- a. Licensee has no prior disciplinary action and is in good standing in the medical community.
- b. The sexual relationship between Licensee and Jane Doe was consensual.
- c. Following the end of his relationship with Patient, Licensee engaged in remedial and rehabilitative measures to address his conduct, including successful completion of both the PROBE Program and Ethics and Boundaries Assessment Services (EBAS) essay examinations, **CONFIDENTIAL**

CONFIDENTIAL

11. This Consent Order and the filing of such document are in accordance with applicable law and the Board has jurisdiction to enter into the Consent Order as provided by K.S.A. 77-505. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board's Final Order.

12. The Board is the sole and exclusive administrative agency in Kansas authorized to regulate the practice of the healing arts. K.S.A. 65-2801 *et seq.*

13. The Kansas Healing Arts Act is constitutional on its face and as applied in this case. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

14. Licensee voluntarily and knowingly waives his right to a hearing. Licensee voluntarily and knowingly waives his right to present a defense by oral testimony and documentary evidence, to submit rebuttal evidence, and to conduct cross-examination of witnesses. Licensee voluntarily and knowingly agrees to waive all possible substantive and procedural motions and defenses that could be raised if an administrative hearing were held.

15. Licensee acknowledges that if formal hearing proceedings were conducted and Licensee presented no exhibits, witnesses, or other evidence, the Board has sufficient evidence to prove that Licensee has violated the Kansas Healing Arts Act with respect to the above allegations. Licensee further waives his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

16. The terms and conditions of the Consent Order are entered into between the undersigned parties and are submitted for the purpose of allowing these terms and conditions to become an Order of the Board. This Consent Order shall not be binding on the Board until an

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authorized signature is affixed at the end of this document. Licensee specifically acknowledges that counsel for the Board is not authorized to sign this Consent Order on behalf of the Board.

17. The Board has received information **CONFIDENTIAL** and has reason to believe there are grounds to take action with respect to Licensee's license under the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*

18. According to K.S.A. 77-505 and K.S.A. 65-2836, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

19. All pending investigation materials **CONFIDENTIAL** regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 35 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

20. Licensee further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Licensee has failed to comply with any of the terms of this Consent Order, the Board may immediately impose any sanction provided for by law, including but not limited to suspension or revocation of Licensee's license to practice medicine and surgery in Kansas. Licensee hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Licensee has failed to comply with any of the terms or conditions set forth in this Consent Order. The Board acknowledges that at any such hearing, Licensee retains the right to confront and examine all witnesses, present evidence, testify on his own behalf, contest the allegations, present oral argument, appeal to the courts, and all other rights set forth in the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.*, and the Kansas Healing Arts Act K.S.A. 65-2801 *et seq.*

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21. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Healing Arts Act or to investigate complaints received under the Risk Management Law, K.S.A. 65-4921 *et seq.*, that are known or unknown and are not covered under this Consent Order, or to initiate formal proceedings based upon known or unknown allegations of violations of the Kansas Healing Arts Act.

22. Licensee hereby releases the Board, its individual members (in their official and personal capacity), attorneys, employees, and agents (hereinafter collectively referred to as "Releasees") from any and all claims, including but not limited to those for alleged damages, actions, liabilities, both administrative and civil, including the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.* arising out of the investigation and acts leading to the execution of this Consent Order. This release shall forever discharge the Releasees of any and all claims or demands of every kind and nature that Licensee has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Licensee shall not commence to prosecute, cause or permit to be prosecuted, any action or proceeding of any description against the Releasees.

23. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any entities authorized to receive disclosure of the Consent Order.

24. This Consent Order, when signed by both parties, constitutes the entire agreement between the parties and may only be modified or amended by a subsequent document executed in the same manner by the parties.

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25. Licensee agrees that all information maintained by the Board pertaining to the nature and result of any complaint and/or investigation may be fully disclosed to and considered by the Board in conjunction with the presentation of any offer of settlement, even if Licensee is not present. Licensee further acknowledges that the Board may conduct further inquiry as it deems necessary before the complete or partial acceptance or rejection of any offer of settlement.

26. Licensee, by signature to this document, waives any objection to the participation of the Board members, including the Disciplinary Panel and General Counsel, in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member or General Counsel in any future proceedings on the basis that the Board member or General Counsel has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

27. Licensee acknowledges he has read this Consent Order and fully understands the contents.

28. Licensee acknowledges this Consent Order has been entered into freely and voluntarily.

29. Licensee shall obey all federal, state and local laws and rules governing the practice of medicine and surgery in Kansas that may be in place at the time of execution of the Consent Order or may become effective subsequent to the execution of this document.

30. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become an Order under K.S.A. 77-505 and K.S.A. 65-2836. This Consent Order shall constitute the Board's Order when filed with the office of the Executive Director for the Board and no further Order is required.

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31. Licensee shall immediately notify the Board or its designees of any citation, arrest or charge filed against him or any conviction for any traffic or criminal offense excluding speeding and/or parking violations.

32. Licensee shall immediately notify the Board or its designee of any complaint filed, or investigation opened, by the proper licensing authority of another state, territory, District of Columbia, or other county, or by a peer review body, a health care facility, a professional association or society, or by a governmental agency.

33. Licensee shall at all times keep Board staff informed of his current practice locations addresses and telephone numbers. Licensee shall provide the above information in writing to the Board within ten (10) days of any such change.

34. This Consent Order constitutes **public disciplinary action**.

35. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

36. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action against his license to practice as medicine and surgery.

SUSPENSION

37. Licensee's license **shall be suspended indefinitely**. Such suspension will be in effect from the date of approval of this Consent Order and shall be in effect **for a period of not less than thirty (30) days**.

38. The indefinite suspension may be terminated or stayed only upon Licensee demonstrating to the Board that such action is warranted under the eight (8) factors to be considered, as articulated in *Vakas v. Kansas Bd. of Healing Arts*, 248 Kan. 589 (1991).

39. While agreeing to an “indefinite suspension” of his license, Licensee will be permitted to present evidence at the August 12, 2022, Kansas State Board of Healing Arts Board meeting that he has met the eight (8) *Vakas* factors required for reinstatement of his medical license. At that hearing, Licensee will also be permitted to request a stay or termination of the indefinite suspension after **not less than thirty (30) days** from its imposition. Petitioner will neither support nor oppose Licensee’s introduction of evidence related to whether Licensee has met the *Vakas* factors, or whether a stay or termination of the suspension after thirty (30) days has passed is an appropriate measure.

40. Licensee agrees that in the event he applies or files a motion for a stay or termination of the indefinite suspension of his medical license, the allegations contained in this Consent Order, whether explicitly set forth or adopted by reference, may be considered the Board.

41. The majority of Licensee’s patient records are in the custody of the University of Kansas Medical Center. Licensee maintains patient records for only four private patients. For these patients, Licensee requests that he be named the custodian of these records as contemplated by K.A.R. 100-24-2 and 100-24-3. In the event this request is denied, Licensee shall place his patients’ records in the custody of another licensed doctor of medicine and surgery, a licensed doctor of osteopathic medicine, or a records maintenance facility in compliance with K.A.R. 100-24-2 and 100-24-3. Within 30 days of the Board’s adoption and filing of the Order, Licensee shall notify the Board in writing of the specific measure taken and the appropriate contact information of the

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designated record custodian so that the Board can respond to questions from patients about the location of their medical records, and how they can obtain them.

42. Licensee acknowledges that pursuant to K.S.A. 65-2867, it shall be unlawful for Licensee to open or maintain an office for the practice of the healing arts, or to announce or hold out to the public the intention, authority, or skill to practice the healing arts in the state of Kansas while his license to practice medicine and surgery is suspended.

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58. Licensee agrees to furnish a copy of this Consent Order to the licensing agency for each and every state in which he holds licensure or applies for licensure.

CONFIDENTIAL

61. All correspondence or communication between Licensee and the Board relating to this Consent Order, including any and all requests for termination and/or modifications of this Consent Order shall be made in writing to:

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Kansas State Board of Healing
Attention: Compliance Coordinator
800 SW Jackson Lower Level Ste A
Topeka, Kansas 66612
KSBHA_ComplianceCoordinator@ks.gov

IT IS FURTHER ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law and as a Final Order of the Board.

IT IS SO ORDERED on this 15th day of August, 2022.

**FOR THE KANSAS STATE BOARD OF
HEALING ARTS:**

Susan Gile

Susan Gile
Acting Executive Director

8/15/2022
Date

Charles W. Gibbs

Charles W. Gibbs, M.D.
Licensee

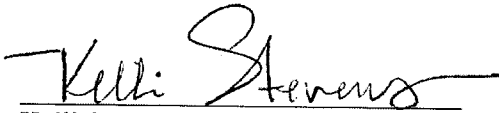
6/29/2022
Date

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PREPARED AND APPROVED BY:



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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the **CONSENT ORDER** by United States mail, postage prepaid, and via e-mail to the address below, on this 15th day of August, 2022 to the following:

Charles W. Gibbs, M.D.
Licensee

CONFIDENTIAL

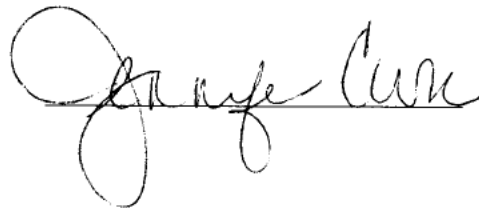
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And the original was hand-filed with:

Susan Gile
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Kansas Board of Healing Arts
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